

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SNYDER,) Case No.
)
Plaintiff,) **COMPLAINT**
)
vs.)
)
DANIEL N. GORDON, P.C., and)
MATTHEW AYLWORTH)
)
Defendants.)

NATURE OF ACTION

1. This is an action brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over Plaintiff's action pursuant to 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. This Court has personal jurisdiction over Defendant because Defendant undertakes continuous and systematic business activities within the state of Washington, including the specific acts that give rise to this complaint.

1 4. Venue is proper before this Court pursuant to 28 U.S.C. §1391(b),
2 where the acts and transactions giving rise to Plaintiff's action occurred in the
3 State of Washington and this district, where Plaintiff resides in State of
4 Washington and this district, and where Defendant transacts business in State of
5 Washington and this district.
6

7
8 **PARTIES**

9 5. Plaintiff, Susan Snyder, ("Plaintiff") is natural persons who at all
10 relevant times resided in State of Washington, County of Snohomish, and City of
11 Mukilteo.
12

13 6. Plaintiff is a natural person obligated, or allegedly obligated, to pay a
14 debt owed or due, or asserted to be owed or due a creditor other than Defendant.
15

16 7. Plaintiff's obligation, or alleged obligation, owed or due, or asserted
17 to be owed or due a creditor other than Defendant, arises from a transaction in
18 which the money, property, insurance, or services that are the subject of the
19 transaction were incurred primarily for personal, family, or household purposes.
20

21 8. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).
22

23 9. Defendant, Daniel N. Gordon, P.C. ("DNG") is a corporation who at
24 all relevant times was engaged, by use of the mails and telephone, in the business
25
26
27

1 of attempting to collect a “debt” from Plaintiffs, as defined by 15 U.S.C.
2 §1692a(5).

3 10. DNG uses instrumentalities of interstate commerce or the mails in a
4 business the principal purpose of which is the collection of any debts, and/or
5 regularly collects or attempts to collect, directly or indirectly, debts owed or due,
6 or asserted to be owed or due another.
7

8
9 11. DNG is a “debt collector” as defined by 15 U.S.C. § 1692a(6).

10 12. Defendant, Matthew Aylworth (“Aylworth”), is an attorney
11 employed by DNG.
12

13 13. Aylworth is regularly engaged, directly and indirectly, in the
14 collection of consumer debts.
15

16 14. Aylworth is involved in the day-to-day management of DNG’s debt
17 collection business.
18

19 15. Aylworth is responsible for day-to-day supervision of DNG’s debt
20 collector employees.
21

22 16. Aylworth was personally involved in the collection of Plaintiff’s
23 debt.
24

25 17. Aylworth was materially involved in the collection of Plaintiff’s
26 debt.
27

1 18. Aylworth, at all relevant times, exercised control over the affairs of
2 DNG's debt collection business.

3 19. Aylworth is a "debt collector" as defined by 15 U.S.C. § 1692a(6).
4

5 **FACTUAL ALLEGATIONS**

6 20. On October 8, 2010, DNG, in an effort to collect from Plaintiff an
7 obligation alleged due its third party client, mailed to Plaintiff a letter reading in
8 part:
9

10 This firm has been retained with the authority to file a lawsuit
11 against you for a debt owed by you to American Express; but
12 at the time of this letter, no decision has been made whether or
13 not we will file a law suit.

14 Demand is hereby made upon you for payment in the sum of
15 \$18026.56.

16 Unless you notify this office with in thirty days after receiving
17 this notice that you dispute the validity of this debt or any
18 portion thereof, this office will assume this debt is valid. If
19 you notify this office in writing within thirty days from
20 receiving this notice, this office will obtain verification of the
21 debt or obtain a copy of a judgment and mail you a copy of
22 such judgment or verification. If you request this office in
23 writing within 30 days after receiving this notice, this office
24 will provide you with the name and address of the original
25 creditor, if different from the current creditor.

26 At this time, no attorney has personally reviewed the
27 particular circumstances of your account. However, if you fail
28 to contact this office, your account will be reviewed by an
attorney to determine whether to exercise the authority given

1 to this firm to sue you or whether not to exercise that authority
2 and to return the file to our client.

3 This communication is from a debt collector. This is an
4 attempt to collect a debt, and any information obtained will be
5 used for that purpose.

6 DANIEL N. GORDON, P.C.

7 (October 8, 2011, Correspondence, attached hereto as Exhibit "A").

8
9 21. On October 29, 2011, Aylworth, on behalf of DNG, signed a
10 complaint against Plaintiff, which was captioned: "American Express Bank FSB
11 v. Susan Snyder aka Susan A. Snyder aka Susan Berry and Craig A. Snyder."
12 (October 29, 2011, Complaint, attached hereto as Exhibit "B").
13

14 22. On or about December 13, 2010, DNG placed no less than two (2)
15 telephone calls to Plaintiff's cellular telephone number in effort to collect from
16 Plaintiff an obligation, or alleged obligation, owed or due, or asserted to be owed
17 or due a creditor other than DNG.
18

19
20 23. On December 13, 2010, DNG informed Plaintiff that it had been
21 hired by American Express to collect a debt, and that if Plaintiff did not pay to
22 DNG the amount alleged owed to American Express that DNG would not only
23 place a lien on Plaintiff's home, but also garnish her wages.
24

25
26 24. On December 13, 2011, DNG caused its telephone number to appear
27 on Plaintiff's caller identification device as 541-342-2276.

1 25. On or about December 15, 2010, DNG placed no less than one (1)
2 telephone call to Plaintiff's cellular telephone number in effort to collect from
3 Plaintiff an obligation, or alleged obligation, owed or due, or asserted to be owed
4 or due a creditor other than DNG.
5

6 26. On December 15, 2010, DNG informed Plaintiff that she must pay to
7 DNG by the end of month the amount alleged owed to American Express.
8

9 27. On December 13, 2011, DNG caused its telephone number to appear
10 on Plaintiff's caller identification device as 541-342-2276.
11

12 28. On or about January 11, 2011, DNG placed no less than one (1)
13 telephone call to Plaintiffs' cellular telephone number in effort to collect from
14 Plaintiff an obligation, or alleged obligation, owed or due, or asserted to be owed
15 or due a creditor other than DNG.
16

17 29. On January 11, 2011, DNG caused its telephone number to appear
18 on Plaintiff's caller identification device as 000-000-0000.
19

20 30. In placing its January 11, 2011, telephone call to Plaintiff, DNG
21 masked its identity by transmitting false information to Plaintiff's caller
22 identification device.
23
24
25
26
27

1 31. On January 25, 2011, Plaintiff instructed DNG, in writing, to cease
2 and desist all telephone communications with her. Plaintiff further specified that
3 all of DNG's future communications with her must be made in writing.
4

5 32. On or about February 17, 2011, DNG placed no less than one (1)
6 telephone call to Plaintiffs' cellular telephone number in effort to collect from
7 Plaintiff an obligation, or alleged obligation, owed or due, or asserted to be owed
8 or due a creditor other than Defendant
9

10 33. On February 17, 2011, DNG caused its telephone number to appear
11 on Plaintiff's caller identification device as 000-000-0000.
12

13 34. In placing its February 17, 2011, telephone call to Plaintiff, DNG
14 masked its identity by transmitting false information to Plaintiff's caller
15 identification device.
16

17 35. On March 7, 2011, Plaintiff served DNG with her answer to the
18 action against her captioned, which was captioned: "American Express Bank FSB
19 v. Susan Snyder aka Susan A. Snyder aka Susan Berry and Craig A. Snyder."
20 (March 7, 2011, Answer, attached hereto as Exhibit "C").
21

22 36. On March 7, 2011, Plaintiff also served DNG with her sworn denial,
23 which reads in part: "I deny that this is my debt and if t is my debt, I deny that it
24 is still valid debt and if it is still a valid debt, I deny the amount sued for in the
25
26
27

amount of \$18,022.12 principal, \$0. Cents as interest including attorney fees is the correct amount.” (March 7, 2011, Sworn Denial, attached hereto as Exhibit “D”).

37. On March 9, 2011, DNG prepared – and later mailed to Plaintiff – its “First Request for Admissions and Request for Production,” which included requests reading:

9. As a result of Defendant(s)’ breach of the Agreement, American Express Bank, FSB had been damaged in the sum of \$18,022, together with interest thereon at the rate of 12.0000% from February 24, 2010 until paid.

* * *

11. Although demanded by Plaintiff, no part of the \$18,022.12 which Defendant(s) owe to Plaintiff has been paid.

(March 9, 2011, First Request for Admissions and Request for Production, attached hereto as Exhibit “D”).

COUNT I

38. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-37.

39. The FDCPA at section 1692c(c) provides:

If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the

1 consumer, the debt collector shall not communicate further
2 with the consumer with respect to such debt, except—

3 (1) to advise the consumer that the debt collector's further
4 efforts are being terminated;

5 (2) to notify the consumer that the debt collector or creditor
6 may invoke specified remedies which are ordinarily invoked
7 by such debt collector or creditor; or

8 (3) where applicable, to notify the consumer that the debt
9 collector or creditor intends to invoke a specified remedy.
10 If such notice from the consumer is made by mail, notification
shall be complete upon receipt.

11 40. DNG violated the FDCPA at section 1692c(c) by communicating
12 with Plaintiff after Plaintiff notified DNG, in writing, that she wished DNG to
13 cease further communication with her.
14

15 41. Aylworth is personally liable for DNG's violation, absent the need to
16 pierce DNG's corporate veil, as a result of his involvement in the day-to-day
17 management of DNG's debt collection business, his responsibility for day-to-day
18 supervision of DNG's debt collector employees, his personal involvement in the
19 collection of Plaintiff's debt, his material involvement in the collection of
20 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
21 collection business
22
23
24

25 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
26

27 a) Adjudging that Defendants violated 15 U.S.C. § 1692c(c);

1 44. DNG violated the FDCPA at section 1692e(3) by falsely
2 representation or implying that any individual is an attorney, and/or or that a
3 communication was from an attorney.
4

5 45. Aylworth is personally liable for DNG's violation, absent the need to
6 pierce DNG's corporate veil, as a result of his involvement in the day-to-day
7 management of DNG's debt collection business, his responsibility for day-to-day
8 supervision of DNG's debt collector employees, his personal involvement in the
9 collection of Plaintiff's debt, his material involvement in the collection of
10 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
11 collection business.
12
13
14

15 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 16 g) Adjudging that Defendants violated 15 U.S.C. § 1692e(3);
17
18 h) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
19 in the amount of \$1,000.00;
20
21 a) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
22
23 b) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
24 this action;
25
26 c) Awarding Plaintiff any pre-judgment and post-judgment interest as
27 may be allowed under the law;
28

d) Awarding such other and further relief as the Court may deem just and proper.

COUNT III

46. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-38.

47. The FDCPA at section 1692e(5) provides:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

* * *

(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

48. DNG violated the FDCPA at section 1692e(5) by threatening to take any action that could not be legally be taken and/or that it did not intend to take

49. Allworth is personally liable for DNG's violation, absent the need to pierce DNG's corporate veil, as a result of his involvement in the day-to-day management of DNG's debt collection business, his responsibility for day-to-day supervision of DNG's debt collector employees, his personal involvement in the collection of Plaintiff's debt, his material involvement in the collection of

1 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
2 collection business.

3 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
4

- 5 a) Adjudging that Defendants violated 15 U.S.C. § 1692e(5);
6
7 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
8 in the amount of \$1,000.00;
9
10 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
11
12 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
13 this action;
14
15 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
16 may be allowed under the law;
17
18 f) Awarding such other and further relief as the Court may deem just
19 and proper.

20
21 **COUNT IV**

22 50. Plaintiff repeats and re-alleges each and every allegation contained
23 in paragraphs 1-37.

24
25 51. The FDCPA at section 1692e(10) provides:

26 A debt collector may not engage in any conduct the natural
27 consequence of which is to harass, oppress, or abuse any

1 person in connection with the collection of a debt. Without
2 limiting the general application of the foregoing, the following
conduct is a violation of this section:

3 * * *

4
5 (10) The use of any false representation or deceptive means to
6 collect or attempt to collect any debt or to obtain information
concerning a consumer.

7
8 52. DNG violated the FDCPA at section 1692e(10) by using false
9 representations or deceptive means to collect or attempt to collect a debt from
10 Plaintiff, or to obtain information concerning Plaintiff.

11
12 53. Aylworth is personally liable for DNG's violation, absent the need to
13 pierce DNG's corporate veil, as a result of his involvement in the day-to-day
14 management of DNG's debt collection business, his responsibility for day-to-day
15 supervision of DNG's debt collector employees, his personal involvement in the
16 collection of Plaintiff's debt, his material involvement in the collection of
17 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
18 collection business
19
20
21

22 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 23 a) Adjudging that Defendants violated 15 U.S.C. § 1692e(10);
24
25 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
26 in the amount of \$1,000.00;
27

- 1 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
- 2 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
- 3 this action;
- 4
- 5 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
- 6 may be allowed under the law;
- 7
- 8 f) Awarding such other and further relief as the Court may deem just
- 9 and proper.

10 **COUNT V**

11

12 54. Plaintiff repeats and re-alleges each and every allegation contained

13 in paragraphs 1-38.

14

15 55. The FDCPA at section 1692f provides:

16 A debt collector may not use unfair or unconscionable means

17 to collect or attempt to collect any debt.

18

19 56. DNG violated the FDCPA at section 1692f by using false

20 representations or deceptive means to collect or attempt to collect a debt from

21 Plaintiff, or to obtain information concerning Plaintiff.

22

23 57. Aylworth is personally liable for DNG's violation, absent the need to

24 pierce DNG's corporate veil, as a result of his involvement in the day-to-day

25 management of DNG's debt collection business, his responsibility for day-to-day

26 supervision of DNG's debt collector employees, his personal involvement in the

1 collection of Plaintiff's debt, his material involvement in the collection of
2 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
3 collection business.
4

5 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- 6 a) Adjudging that Defendants violated 15 U.S.C. § 1692f;
7
8 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
9 in the amount of \$1,000.00;
10
11 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
12
13 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
14 this action;
15
16 e) Awarding Plaintiff any pre-judgment and post-judgment interest as
17 may be allowed under the law;
18
19 f) Awarding such other and further relief as the Court may deem just
20 and proper.

21 COUNT VI

22 58. Plaintiff repeats and re-alleges each and every allegation contained
23 in paragraphs 1-38.
24

25 59. The FDCPA at section 1692g(b) provides:

26 If the consumer notifies the debt collector in writing within the
27 thirty-day period described in subsection (a) of this section

1 that the debt, or any portion thereof, is disputed, or that the
2 consumer requests the name and address of the original
3 creditor, the debt collector shall cease collection of the debt, or
4 any disputed portion thereof, until the debt collector obtains
5 verification of the debt or a copy of a judgment, or the name
6 and address of the original creditor, and a copy of such
7 verification or judgment, or name and address of the original
8 creditor, is mailed to the consumer by the debt collector.
9 Collection activities and communications that do not
10 otherwise violate this subchapter may continue during the 30-
11 day period referred to in subsection (a) of this section unless
12 the consumer has notified the debt collector in writing that the
13 debt, or any portion of the debt, is disputed or that the
14 consumer requests the name and address of the original
15 creditor. Any collection activities and communication during
16 the 30-day period may not overshadow or be inconsistent with
17 the disclosure of the consumer's right to dispute the debt or
18 request the name and address of the original creditor.

19
20 60. DNG violated the FDCPA at section 1692g(b) communicating with
21 Plaintiff in a manner that overshadowed and/or was inconsistent with the
22 disclosure of the Plaintiff's right to dispute the subject debt or request the name
23 and address of the original creditor.

24 61. Aylworth is personally liable for DNG's violation, absent the need to
25 pierce DNG's corporate veil, as a result of his involvement in the day-to-day
26 management of DNG's debt collection business, his responsibility for day-to-day
27 supervision of DNG's debt collector employees, his personal involvement in the
28 collection of Plaintiff's debt, his material involvement in the collection of

1 Plaintiff's debt, and his exercise of control over the affairs of DNG's debt
2 collection business

3 WHEREFORE, Plaintiff prays for relief and judgment, as follows:
4

- 5 a) Adjudging that Defendants violated 15 U.S.C. § 1692g(a);
6
7 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,
8 in the amount of \$1,000.00;
9
10 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;
11
12 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in
13 this action;
14
15 a) Awarding Plaintiff any pre-judgment and post-judgment interest as
16 may be allowed under the law;
17
18 b) Awarding such other and further relief as the Court may deem just
19 and proper.

20 **TRIAL BY JURY**

21 62. Plaintiff is entitled to and hereby demands a trial by jury.
22

23 Respectfully submitted this 19th day of August, 2011.

24 s/Jon N. Robbins
25 Jon N. Robbins
26 WEISBERG & MEYERS, LLC
27 Attorney for Plaintiff